

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Barry Scott Michaelson,

Civil 09-2862 MJD/FLN

Plaintiff,

v.

O R D E R

State of Minnesota, D.O.C.,
et al.,

Defendants.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Franklin L. Noel dated October 27, 2009, all the files and records, and no objections having been filed to said Report and Recommendation,

IT IS HEREBY ORDERED that:

1. Plaintiff's application for leave to proceed in forma pauperis, (Docket No. 2), is **DENIED**;
2. This action is **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1);
3. Plaintiff is required to pay the unpaid balance of the Court filing fee, namely the full \$350, in the manner prescribed by 28 U.S.C. § 1915(b)(2); and
4. The dismissal of this action is counted as a "strike" against Plaintiff for purposes of 28 U.S.C. § 1915(g).

DATED: November 13, 2009.
at Minneapolis, Minnesota

s/Michael J. Davis
CHIEF JUDGE MICHAEL J. DAVIS
United States District Court